

CHAPTER V

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5.01 EMPLOYEE PRIVACY POLICY

Faculty and staff may, subject to state and federal laws, expect the right to privacy in the following: (1) incoming US posted mail marked "personal" or "confidential;" (2) personal outgoing US posted mail; and (3) personal vehicles.

EMPLOYEES DO NOT HAVE THE RIGHT TO PRIVACY IN THEIR ASSIGNED WORK SPACE OR IN THE INFORMATION RESOURCES, WHICH ARE THE PROPERTY OF THE STATE.

U. T. Tyler reserves the right to search the contents of State vehicles, structures, equipment, and furniture of any kind, including offices, desks, lockers, files and file cabinets, at any time and for any reason. Employees are therefore encouraged to refrain from storing on state property, personal articles, including correspondence that they wish to protect from inspection by U. T. Tyler. By accepting or continuing employment, each UT Tyler employee is deemed to have consented to unannounced searches of his/her work area. Searches of employees' personal containers such as purses and briefcases will not be conducted without the employee's consent.

Other relevant University Policies include:

The University of Texas System Business Procedure Memorandum 53-02-96;

UT Tyler Handbook of Operating Procedures, section 5.10;

UT Tyler Employee Discipline and Discharge Policy;

Regents' Rules and Regulations, Part One, Chapter III, Section 4.

5.02 DRUG-FREE WORKPLACE POLICY STATEMENT

The University of Texas at Tyler is required by the *Drug-Free Workplace Act of 1988* (41 U.S.C.A., Sections 701-707), to notify all employees that the unlawful manufacture, sale, distribution, possession or use of a controlled substance in or on any premises or property owned or controlled by the University is prohibited. A controlled substance is any substance so defined by federal or state statute or regulation.

Any employee who is found guilty (including a plea of no contest) or has a sentence, fine or other penalty imposed by a court of competent jurisdiction under a criminal statute for an offense involving a controlled substance that occurred in or on premises or property owned or controlled by the University shall report such action within five (5) days.

An employee who unlawfully manufactures, sells, distributes, possesses or uses a controlled substance in or on premises or property owned or controlled by the University, regardless of whether such activity results in the imposition of a penalty under a criminal statute, will be subject to appropriate disciplinary action, including

termination, or will be required to participate satisfactorily in an approved drug assistance or rehabilitation program or both.

A. Drug and Alcohol Policy

- (1) Standard of Conduct.** The use or possession of alcohol or drugs by an employee on University premises is defined as misconduct by The University of Texas System's "Policies and Procedures for Discipline and Dismissal of Employees." The unlawful use, possession, or distribution of illicit drugs or alcohol by an employee is prohibited by The University of Texas System's "Policy on Drugs and Alcohol".
- (2) Health Risks of Alcohol and Drugs.**

 - (a) Alcohol.** Health hazards associated with the excessive use of alcohol or with alcohol dependency include dramatic behavioral changes, retardation of motor skills, and impairment of reasoning and rational thinking. These factors result in a higher incidence of accidents and accidental deaths for such persons than for non-users of alcohol. Nutrition also suffers and vitamin and mineral deficiencies are frequent. Prolonged alcohol abuse causes bleeding from the intestinal tract, damage to nerves and the brain, psychotic behavior, loss of memory and coordination, damage to the liver often resulting in cirrhosis, impotence, severe inflammation of the pancreas, and damage to the bone marrow, heart, testes, ovaries, and muscles. Damage to the nerves and organs is usually irreversible. Cancer is the second leading cause of death in alcoholics and is ten (10) times more frequent than in non-alcoholics. Sudden withdrawal of alcohol from persons dependent on it will cause serious physical withdrawal symptoms.
 - (b) Drugs.** The use of illicit drugs usually causes the same general type of physiological and mental changes as alcohol, though frequently those changes are more severe and more sudden. Death or coma resulting from overdose of drugs is more frequent than from alcohol, but unlike alcohol, abstinence can lead to reversal of most physical problems associated with drug use.
 - (c) Cocaine.** Cocaine is a stimulant that is most commonly inhaled as a powder. It can be dissolved in water and used intravenously. The cocaine extract (freebase) is smoked. Users progress from infrequent use to dependence within a few weeks or months.

Psychological and behavioral changes resulting from use include over-stimulation, hallucinations, irritability, sexual dysfunction, psychotic behavior, social isolation, and memory problems. An overdose produces convulsions and delirium and may result in death from cardiac arrest. Discontinuing the use of cocaine requires considerable assistance, close supervision and treatment.

- (d) *Amphetamines (speed, love drug, ecstasy)*. Patterns of use and associated effects are similar to cocaine. Severe intoxication may produce confusion, rambling or incoherent speech, anxiety, psychotic behavior, ringing in the ears, hallucinations, and irreversible brain damage. Intense fatigue and depression resulting from use can lead to suicide. Large doses may result in convulsions and death from cardiac or respiratory arrest.
- (e) *Heroin and other opiates*. These drugs are usually taken intravenously. "Designer" drugs similar to opiates include fentanyl, demerol, and "china white". Addiction and dependence develop rapidly. Use is characterized by impaired judgment, slurred speech and drowsiness. Overdose is manifested by coma, shock and depressed respiration, with the possibility of death from respiratory arrest. Withdrawal problems include sweating, diarrhea, fever, insomnia, irritability, nausea and vomiting, and muscle and joint pains.
- (f) *Hallucinogens or psychedelics*. These include LSD, mescaline, peyote, and phencyclidine (PCP or "angel dust"). Use impairs and distorts one's perception of surroundings, causes bizarre mood changes and results in visual hallucinations that involve geometric forms, colors, and persons or objects. Users who discontinue use experience "flashback" consisting of distortions of virtually any sensation. Withdrawal may require psychiatric treatment for the accompanying persistent psychotic states. Suicide is not uncommon.
- (g) *Solvent inhalants, e.g. glue, lacquers, plastic cement*. Fumes from these substances cause problems similar to alcohol. Incidents of hallucinations and permanent brain damage are more frequent.
- (h) *Marijuana (Cannabis)*. Marijuana is usually ingested by smoking. Prolonged use can lead to psychological dependence, disconnected ideas, alteration of depth perception and sense of time, impaired judgment, and impaired coordination.
- (i) *Damage from intravenous drug use*. In addition to the adverse effects associated with the use of a specific drug, intravenous drug

users who use unsterilized needles or who share needles with other drug users can develop AIDS, hepatitis, tetanus (lock jaw), and infections in the heart. Permanent brain damage may also result.

(3) University Penalties.

- (a)** *Students.* The University will impose a minimum disciplinary penalty of suspension for a specified period of time or suspension of rights and privileges, or both, for conduct related to the use, possession, or distribution of drugs that are prohibited by state, federal, or local law. Other penalties that may be imposed for conduct related to the unlawful use, possession or distribution of drugs or alcohol include disciplinary probation, payment for damage to or misappropriation of property, suspension of rights and privileges, suspension for a specified period of time, expulsion, or such other penalty as may be deemed appropriate under the circumstances.
- (b)** *Employees.* The unlawful use, possession, or distribution of drugs or alcohol, or engaging in conduct prohibited by university policy regarding the manufacture, sale, possession, distribution or use of alcohol or illegal drugs will result in a disciplinary penalty of disciplinary probation, demotion, suspension without pay, or termination, depending upon the circumstances.

(4) Texas Law.

OFFENSE	MINIMUM PUNISHMENT	MAXIMUM PUNISHMENT
Manufacture or delivery of controlled substances (drugs)	Confinement in jail for a term of more than 2 years or less than 180 days, and a fine not to exceed \$10,000.	Confinement in TAC for life or for a term of not more than 99 years nor less than 15 years, and a fine not to exceed \$250,000.
Possession of controlled substances (drugs)	Confinement in jail for a term of more than 180 days, a fine not to exceed \$2,000, or both	Confinement in TAC for life or for a term of not more than 99 years nor less than 10 years, and a fine not to exceed \$100,000.
Delivery of Marijuana	Confinement in jail for a term of not more than 180 days, a fine not to exceed \$2,000, or both	Confinement in TAC for life or for a term of not more than 99 years nor less than 5 years, and a fine not to exceed \$50,000
Possession of Marijuana	Confinement in jail for a term not more than 180 days, a fine not to exceed \$2,000, or both	Confinement in TAC for a term of not more than 20 years nor less than 2 years, and a fine of not more than \$10,000.
Driving while intoxicated (includes intoxication from alcohol, drugs, or both)	Confinement in jail for a term of not more than 180 days or less than 72 hours, and a fine of not more than \$2,000.	Confinement in TAC for a term of not more than 20 years not less than 2 years, and a fine of not more than \$10,000.
Public intoxication		A fine not to exceed \$500.
Purchase of alcohol by a minor	Fine of not less than \$25 nor more than \$200.	For a subsequent offense, a fine of not less than \$300 nor more than \$1,000.
Consumption of alcohol by a minor Possession of alcohol by a minor	Fine of not less than \$25 nor more than \$200.	For a subsequent offense, a fine of not less than \$500 nor more than \$1,000.
Sale of alcohol to a minor	Fine of not less than \$100 nor more than \$500 or confinement in jail for not more than 1 year, or both	For a subsequent offense, a fine of not less than \$500 nor more than \$1,000 or confinement in jail for not more than 1 year, or both

(5) Federal Law.

OFFENSE	MINIMUM PUNISHMENT	MAXIMUM PUNISHMENT
Manufacture, distribution or dispensing drugs (includes marijuana)	A term of imprisonment for up to 5 years, and a fine of \$250,000.	A term of life imprisonment without release (no eligibility for parole) and a fine not to exceed \$8,000,000 (for an individual) or \$20,000,000 (if other than an individual)
Possession of drugs (including marijuana)	Imprisonment for up to one year, and a fine of not less than \$1,000.	Imprisonment for not more than 20 years or less than 5 years and a fine of not less than \$5,000 plus costs of investigation and prosecution.
Operation of a Common Carrier under the influence of alcohol or drugs		Imprisonment for up to 15 years and a fine not to exceed \$250,000.

5.03 HUMAN IMMUNODEFICIENCY VIRUS INFECTION AND HEPATITIS B VIRUS POLICY

A. General. The University of Texas System recognizes Human Immunodeficiency Virus (HIV) and Hepatitis B Virus (HBV) as serious public health threats and is committed to encouraging an informed and educated response to issues and questions concerning these infections.

The guidelines for Health Care Workers outlined in this document are based on the following statements from the recommendations issued by the Centers for Disease Control (CDC) on July 12, 1991:

- (1) Infected Health Care Workers who adhere to universal precautions and who do not perform invasive procedures pose no risk for transmitting HIV or HBV to patients.
- (2) Infected Health Care Workers who adhere to universal precautions and who perform certain exposure-prone procedures may pose a small risk for transmitting HBV to patients.
- (3) HIV is transmitted much less readily than HBV.

There are twenty (20) published studies that indicate a total of over 300 patients were infected with HBV in association with treatment by an HBV-infected Health Care Worker. These studies conclude that a combination of risk factors accounted for transmission of HBV from Health Care Workers to patients.

Of the Health Care Workers whose hepatitis B e antigen (HBeAg) status was determined, all were HBeAg positive. The presence of HBeAg in blood serum is associated with higher levels of circulating virus and therefore with greater infectivity of hepatitis-B positive individuals; the risk of HBV transmission to Health Care Workers after a percutaneous (i.e., puncture through the skin) exposure to HBeAg-positive blood is approximately 30%.

The risk of HIV transmission to a Health Care Worker after percutaneous exposure to HIV-infected blood is considerably lower than the risk of HBV transmission after percutaneous exposure to HBeAg-positive blood (0.3% versus approximately 30%). Thus, the risk of transmission of HIV from an infected Health Care Worker to a patient during an invasive procedure is likely to be proportionately lower than the risk of HBV transmission from an HBeAg-positive Health Care Worker to a patient during the same procedure. Unlike HBV infection, however, there is currently no readily available laboratory test for increased HIV infectivity.

Investigation of incidents of HIV infections among patients in the practice of one dentist with acquired immunodeficiency syndrome (AIDS) strongly suggested that HIV was transmitted to five of the approximately 850 patients evaluated through June 1991. The investigation indicates that HIV transmission occurred during dental care, although the precise mechanisms of transmission have not been determined. In two other studies, when patients who had been treated by a general surgeon and surgical resident who had AIDS were tested, all patients tested were negative for HIV infection. In another study, patients treated by a dental student with HIV infection and who were later tested were all negative for HIV infection.

Another investigation of patients whose surgical procedures had been performed by a general surgeon within seven (7) years before the surgeon was diagnosed as having AIDS failed to document transmission of HIV from the surgeon to the patients.

B. Purpose, Scope and Definitions.

- (1) The purpose of this policy is to provide guidance in complying with statutes concerning acquired immune deficiency syndrome, human immunodeficiency virus, and hepatitis B virus. In addition, the medical, educational, legal, administrative, and ethical issues related to specific situations involving persons with HIV or HBV infections in the following areas are addressed:
 - (a) Administrative policies.

- (b) Residence life.
 - (c) Health education.
 - (d) Testing for HIV or HBV infection.
 - (e) Confidentiality of information related to persons with AIDS, HIV or HBV infection.
 - (f) Patient care.
- (2) This policy is applicable to students, faculty, and employees of U. T. Tyler and shall be made available to students, faculty and staff members by its inclusion in the student, faculty and personnel guides if practicable, or by any other method.
- (3) Definitions.
- (a) *Invasive procedure.* Surgical entry into tissues, cavities, or organs; repair of major traumatic injuries; cardiac catheterization and angiographic procedures; a vaginal or cesarean delivery or other invasive obstetric procedure during which bleeding may occur; or the manipulation, cutting or removal of any oral or perioral tissues, including tooth structure, during which bleeding occurs or the potential for bleeding exists.
 - (b) *Exposure-prone procedure.* A procedure involving the contact of a Health Care Worker's finger with a needle tip in a body cavity or the simultaneous presence of the Health Care Worker's fingers and a needle or other sharp instrument or object in a poorly visualized or highly confined area of the body. Such procedures pose a recognized risk of injury to the Health Care Worker that is likely to result in the Health Care Worker's blood contacting the patient's body cavity, subcutaneous tissues, or mucous membranes.
 - (c) *Health Care Worker.* A person who provides direct patient health care services pursuant to authorization of a license, certificate, or registration, or in the course of a training or education program.
 - (d) *Institutional Committee.* A task force or institution-wide committee appointed by U. T. Tyler to oversee the development and implementation of educational programs related to HIV and HBV and to advise the administration on policies regarding HIV and HBV.
 - (e) *Component Expert Review Panel.* A panel appointed by the President to review instances of HIV or HBV infection in Health Care Workers and to identify exposure-prone procedures and to determine

those circumstances, if any, under which a Health Care Worker who is infected with HIV or is HBeAg positive may perform such procedures. The panel should be composed of experts who provide a balanced perspective and might include:

- 1) Health Care Worker's personal physician(s);
- 2) an infectious disease specialist with expertise in the epidemiology of HIV and HBV transmission;
- 3) a health professional with expertise in the procedures performed by the affected Health Care Worker;
- 4) a member of the component institution's infection-control committee, preferably a hospital epidemiologist; and,
- 5) an occupational health specialist.

(f) *System Review Panel.* A panel responsible for reviewing the actions of each Component Expert Review Panel to assure uniform and consistent compliance with these guidelines and applicable statutes and regulations. The panel shall be composed of an expert in blood-borne infections (including HIV and HBV) from each health component institution appointed by the Chief Administrative Officer and representatives from The U. T. System Office of Health Affairs, Office of Academic Affairs, and Office of General Counsel.

(g) *HBeAg.* That portion of the hepatitis B virus, whose presence in the blood of a person correlates with higher levels of circulating virus and therefore with greater infectivity of that person's blood; the presence of HBeAg in blood that can be detected by appropriate testing.

C. General Policies.

- (1) *Admissions to Colleges.* The existence of HIV or HBV infection shall not be considered in admission decisions unless current scientific information indicates required academic activities will likely expose others to risk of transmission.
- (2) *Residential Housing.* Residential housing staff will not exclude HIV-infected or HBV-infected students from University housing and will not inform other students that a person with HIV or HBV infection lives in University housing.
- (3) *Employment.* The existence of HIV or HBV infection will not be used to determine suitability for employment by U. T. Tyler unless the position

requires performance of exposure-prone procedures as identified by the Component Expert Review Panel.

- (4) *Class Attendance.* A student with HIV or HBV infection shall be allowed to attend all classes without restrictions, as long as the student is physically and mentally able to participate, to perform assigned work, and poses no health risk to others.

- (5) *Health Care Workers and Students Assigned to Work Within Clinical Settings (Health Care Workers).* Current information from investigations of HIV and HBV transmission from Health Care Workers to patients indicates that when Health Care Workers adhere to recommended infection-control procedures the risk of transmitting HBV from an infected Health Care Worker to a patient is small, and the risk of transmitting HIV is likely to be even smaller; however, the likelihood of exposure of the patient to a Health Care Worker's blood is greater for certain invasive procedures designated as exposure-prone. Performance of exposure-prone procedures presents a recognized risk of percutaneous injury to the Health Care Worker, and -- if such an injury occurs -- the Health Care Worker's blood is likely to contact the patient's body cavity, subcutaneous tissues, and/or mucous membranes. To minimize the risk of HIV or HBV transmission from an infected Health Care Worker to a patient, the following measures will be followed:
 - (a) All Health Care Workers must adhere to universal infection control precautions, including the appropriate use of hand washing, protective barriers, and care in the use and disposal of needles and other sharp instruments. Health Care Workers who have exudative (oozing) lesions or weeping dermatitis (oozing inflammation of the skin) must refrain from all direct patient care and from handling patient-care equipment and devices used in performing invasive procedures until the condition resolves. Health Care Workers will also comply with current guidelines for disinfection and sterilization of reusable devices used in the invasive procedures. All component institutions that provide health care shall establish procedures for monitoring compliance with universal precautions.

 - (b) Currently available data provide no basis for recommendations to restrict the practice of Health Care Workers infected with HIV or HBV who perform invasive procedures not identified as exposure-prone, provided the infected Health Care Workers practice recommended surgical or dental technique and comply with universal infection control precautions and current recommendations for sterilization/disinfection.

- (c) Exposure-prone procedures will be identified by an Expert Review Panel.
- (d) Health Care Workers who perform exposure-prone procedures should know their HIV and HBV status. Those infected with HBV also should know their HBeAg status.
- (e) All Health Care Workers providing direct patient care should have a complete series of hepatitis B vaccine prior to the start of direct patient care or complete the series as rapidly as is medically feasible, or should be able to show serologic confirmation of immunity to hepatitis B virus.
- (f) A Health Care Worker who is infected with HIV or HBV (and is HBeAg positive) may not perform or engage in activities that might require him or her to perform exposure-prone procedures unless an Expert Review Panel, has counseled the Health Care Worker and has prescribed the circumstances under which such procedures may be performed. Continued performance of such procedures must include notifying a prospective patient or person legally authorized to consent for an incompetent patient that the Health Care Worker is infected with HIV or HBV and obtaining consent to perform a procedure before the patient undergoes an exposure-prone procedure. Such notification is not required in a medical emergency when there is insufficient time to locate another Health Care Worker to perform the exposure-prone procedure and to obtain consent without endangering the patient's health.

A Health Care Worker infected with HIV or HBV who performs invasive, but not exposure-prone procedures as identified by an Expert Review Panel shall not have his or her practice restricted solely on the basis of HIV or HBV infection provided he or she adheres to the universal precautions for infection control. The actions and recommendations of an Expert Review Panel shall be reported to the President and to the appropriate Executive Vice Chancellor and shall be presented to the System Review Panel.

- (g) To permit the continued use of the talents, knowledge, and skills of a Health Care Worker whose practice is modified due to infection with HIV or HBV, the worker should:
 - (i) be offered opportunities to continue appropriate patient care activities, if practicable;
 - (ii) receive career counseling and job retraining; or

- (iii) to the extent reasonable and practicable be counseled to enter an alternative curriculum if the Health Care Worker is a student.
 - (h) A Health Care Worker whose practice is modified because of HBV infection may request periodic redeterminations by an Expert Review Panel based upon change in the worker's HBeAg status due to resolution of infection or as a result of treatment.
- (6) *Access To Facilities.* A person with HIV or HBV infection should not be denied access to any U. T. Tyler facility because of HIV or HBV infection.
- (7) *Testing for HIV and HBV Infection.*
- (a) *Mandatory Testing.* No programs for mandatory HIV or HBV testing of employees, students, or patients will be undertaken without their consent unless authorized or required by law, court order, or as specified in this Subsection 5.03C(7)(a) or Subsection 5.03C(7)(h).

A patient may be required to undergo HIV testing if the patient is scheduled for a medical procedure that the Texas Board of Health has determined may expose health care personnel to AIDS or HIV infection if there is sufficient time to receive the test results before the procedure is conducted.

A person may be required to undergo HIV testing to screen blood, blood products, body fluids, organs or tissues to determine suitability for donation.

- (b) *Voluntary Testing for HIV and Counseling.* U. T. Tyler shall offer or refer students, faculty and staff members for confidential or anonymous HIV counseling and testing services. All testing will include counseling before and after the test. Unless required by law, test results shall be revealed to the person tested only when the opportunity is provided for immediate, individual, face-to-face counseling about:
 - (i) the meaning of the test results.
 - (ii) the possible need for additional testing.
 - (iii) measures to prevent the transmission of HIV.
 - (iv) the availability of appropriate health care services, including mental health care, and appropriate social and support services in the geographical area of the person's residence.

- (v) the benefits of partner notification.
- (vi) the availability of partner notification programs. If a person with a positive HIV test result requests that his/her partner(s) be made aware of the possibility of exposure through a partner notification program, the post-test counselor will have the HIV-infected person sign a statement requesting assistance of a partner notification program.

This statement will be made a permanent part of the person's medical record. A representative of U. T. Tyler will then request the local health department to contact the partner(s) identified by the HIV -infected person.

(c) *Partner Notification.*

A health care professional who knows a patient is HIV positive and who has actual knowledge of possible transmission of the virus to a third party will notify a partner notification program established by Texas Department of Health (TDH).

(d) *Informed Consent for HIV Testing.*

- (1) Unless otherwise authorized or required by law, no HIV test shall be performed without informed consent of the person to be tested.
- (2) Consent will be written on a separate form, or the medical record will document that the test has been explained and consent has been obtained. The consent form will state that post-test counseling will be offered or the medical record will note that the patient has been informed that post-test counseling will be offered.

(e) *Reporting of Test Results.* HIV and HBV test results will be reported in compliance with all applicable statutory requirements, including the Communicable Disease Prevention and Control Act, Texas Health and Safety Code, Sec. 81.001.

(f) *Conditions of HIV Testing of Employees at Institution's Expense.* Employees will be informed that they may request HIV testing and counseling at the institution's expense if,

- (1) the employee documents possible exposure to HIV while performing duties of employment, and

- (2) the employee was exposed to HIV in a manner that is capable of transmitting the infection as determined by guidelines developed in accordance with statements of the Texas Department of Health (TDH) and Centers for Disease Control (CDC).
- (g) *Qualifying for Workers' Compensation Benefits.* State law requires that an employee who bases a workers' compensation claim on a work related exposure to HIV must provide a written statement of the date and circumstances of the exposure and document that within ten (10) days after the exposure, the employee had a test result that indicated absence of HIV infection. An employee who may have been exposed to HIV while performing duties of employment may not be required to be tested, but refusal to be tested may jeopardize Workers' Compensation benefits.
- (h) *Testing Following Potential Exposure to HIV or HBV.* Testing of employees or students exposed to material that has potential for transmitting HIV or HBV as a result of employment or educational assignment should be done within ten (10) days after exposure and should be repeated after one (1) month. Testing for HIV also should be done after three (3) and six (6) months. Testing should follow TDH, U. S. Public Health Service, and CDC guidelines.

In cases of exposure of an employee or student to another individual's ("Individual" in this paragraph) blood or body fluid, U. T. Tyler, at the institution's expense, may test or refer that individual for testing for HIV and HBV infection with or without the Individual's consent, provided that the test is performed under approved TDH, U.S. Public Health Service, and CDC guidelines and procedures that respect the rights of the person being tested. This includes post-test counseling as specified in Section 5.03C(7)(b). If an HIV test is done without the Individual's consent, the guidelines must ensure that any identifying information concerning the Individual's test will be destroyed as soon as the testing is complete and the person who may have been exposed is notified of the result. Test results will be reported in compliance with all applicable statutory requirements, as specified in Section 5.03C(7)(e).

A U. T. System law enforcement officer may request TDH or a health authority duly authorized pursuant to the Local Public Health Reorganization Act, Tex. *Health & Safety Code Ann.*, Chapter 121 (Vernon 1992), to order testing of another person who may have exposed the law enforcement officer to a reportable disease, including HIV infection. The request for such testing may be made

only if the law enforcement officer experienced the exposure in the course of employment, if the law enforcement officer believes the exposure places the law enforcement officer at risk of the reportable disease, and the law enforcement officer presents to TDH or the health authority a sworn affidavit that delineates the reasons for the request.

- (8) *Confidentiality of Records.* Except where release is required or authorized by law, information concerning the HIV status of students, employees, or patients and any portion of a medical record will be kept confidential and will not be released without written consent. HIV status in personnel files and Workers' Compensation files is to remain confidential and have the confidentiality status of medical records.
- (9) *Education and Safety Precautions for Health Care Workers.* Each health professions program shall develop guidelines for Health Care Workers and students in the health professions concerning prevention of transmission of HIV and HBV and concerning Health Care Workers who have HIV and HBV infection. All Health Care Workers shall be provided instruction on universal infection control precautions. Each Health Care Worker who is involved in direct patient care should complete an educational course about HIV and HBV infection based on the model education program and workplace guidelines developed by the TDH and the guidelines of this policy.
- (10) *Education.*
 - (a) *General Employee Educational Pamphlet.* U. T. Tyler will provide each employee an educational pamphlet about methods of transmission and prevention of HIV infection. The pamphlet will be the TDH educational pamphlet or a pamphlet based on the model development by the TDH. The pamphlet will be provided to new employees on the first day of employment and to all employees annually.
 - (b) *Information On Prevention Provided To Students.*
 - (i) U. T. Tyler will routinely offer students programs based on the model HIV education and prevention program developed by the TDH and tailored to the students' cultural, educational, language and developmental needs.
 - (ii) The employee educational pamphlet will be available to students on request.

- (c) *Guidelines For Laboratory Courses.* Laboratory courses requiring exposure to material that has potential for transmitting HIV or HBV shall adopt safety guidelines for handling such material and distribute these guidelines to students and staff prior to their coming in contact with such material.
 - (d) *Education Of Students Entering Health Professions.* Health professions programs shall include within the program curriculum information about:
 - (i) methods of transmission and methods of prevention of HIV and HBV infection, including universal control precautions;
 - (ii) federal and state laws, rules and regulations concerning HIV infection and AIDS; and,
 - (iii) the physical, emotional, and psychological stress associated with the care of patients with terminal illnesses.
- (11) *Unemployment Compensation Benefits.* Each component institution will inform employees via employee and faculty guides or other appropriate methods that state law provides that an individual will be disqualified for unemployment compensation benefits:
- (a) if the Texas Employment Commission (TEC) finds that the employee left work voluntary rather than provide services included within the course and scope of employment to an individual infected with a communicable disease, including HIV. This disqualification applies if the employer provided facilities, equipment, training, and supplies necessary to take reasonable precautions against infection.
 - (b) if the TEC finds that the employee has been discharged from employment based on a refusal to provide services included within the course and scope of employment to an individual infected with a communicable disease, including HIV. This disqualification applies if the employer provided facilities, equipment, training and supplies necessary to take reasonable precautions against infection.
- (12) *Health Benefits.* No student or employee will be denied benefits or provided reduced benefits under a health plan offered through U. T. Tyler on the basis of a positive HIV test result.

5.04 SOLICITATION ON CAMPUS

Solicitation on any property, street or sidewalk, or in any building, structure or facility owned or controlled by The University of Texas at Tyler or The University of Texas System, will not be permitted except as authorized by The University of Texas System Regents' Rules and Regulations (Part One, Chapter VI, Subsection 6.6).

The term "solicitation" means the sale, lease, rental or offer for sale, lease, rental of any property, product merchandise, publication, or service, whether for immediate or future delivery; an oral statement or the distribution or display of printed material, merchandise, or products that is designed to encourage the purchase, use, or rental of any property, product, merchandise, publication, or service; the oral or written appeal or request to support or join an organization other than a registered student, faculty or staff organization; the receipt of or request for any gift or contribution; or the request to support or oppose or to vote for or against a candidate, issue, or proposition appearing on the ballot at any election held pursuant to state or federal law or local ordinances.

5.05 ANONYMOUS PUBLICATION

Anonymous publications are prohibited and any individual or organization publishing or aiding in publishing, or circulating or aiding in circulating, any anonymous publication will be subject to disciplinary action as set forth by The University of Texas Regents' Rules and Regulations (Part One, Chapter VI, Section 10).

5.06 RESEARCH FRAUD/MISCONDUCT POLICY

A. Policy Statement Relating to Misconduct/Fraud in Research.

- (1) The University of Texas at Tyler strives to create a research climate that promotes faithful adherence to high ethical standards in the conduct of research without inhibiting the productivity and creativity of persons involved in research. Misconduct or fraud in research is an offense that damages not only the reputation of those involved but also that of the entire educational community.
- (2) Misconduct/fraud in research means fabrication, falsification, plagiarism, or other practices that materially deviate from those that are commonly accepted within the academic community for proposing, conducting, or reporting research. It does not include honest errors or honest differences in interpretations or judgments of data.
- (3) Misconduct/fraud in research is a major breach of the relationship between a faculty or staff member and the institution. In order to maintain the integrity of research projects, every person engaged in research must keep a permanent auditable record of all experimental protocols, data, and

findings. Co-authors on research reports of any type, including publications, must have had a bona fide role in the research and must accept responsibility for the quality of the work reported.

- (4) Scholarly activities which involve faculty/student collaboration are encouraged and may be positively recognized in faculty personnel processes. Issues related to faculty/student collaboration may include matters such as expected contributions of each party, order of authorship, and/or type of citation to be given, and must be addressed early in any scholarly project. Decisions must be congruent with the ethics and scholarly customs of each discipline involved. Specific recognition of the nature and scope of individual student contributions must be made in all published materials.
- (5) Any inquiry or investigation of allegations of misconduct/fraud in research must proceed promptly and with due regard for the reputation and rights of the individuals involved.
- (6) The University will take all reasonable steps to assure that (1) the persons involved in the evaluation of the allegations and evidence have appropriate expertise, (2) no person involved in the procedure is either biased against the accused person(s) or has a conflict of interest, and (3) affected individuals will receive confidential treatment to the maximum extent possible.

B. Procedures for Addressing Misconduct/Fraud in Research.

- (1) Allegations of misconduct/fraud in research should be brought to the attention of the appropriate department chair and dean or, if such allegations involve a department chair or dean, they should be brought to the attention of the President. The department chair, dean, or, in the case of allegations made against the department chair or dean, a person designated by the President will bring such allegations to the attention of the principal investigator of the research program and any researchers affected by the allegations. The department chair, dean or person designated by the President, with due regard for the reputations of all parties involved, will immediately conduct an inquiry into the allegations. The inquiry must be completed within sixty (60) calendar days unless circumstances clearly warrant a longer period, in which case the inquiry record must include documentation of the reasons for exceeding the sixty (60) day period.
- (2) At the conclusion of the inquiry, a written report shall be prepared and delivered to the President. The report will include a description of the evidence reviewed, a summary of relevant interviews, and a statement of the conclusion(s) reached together with the rationale for such

conclusion(s). The report shall be accompanied by all written statements, data, or other evidence considered during the inquiry. The President shall provide the person(s) against whom the allegations have been made a copy of the report and an opportunity to comment on allegations and findings of an investigation and request that any comment in response be made within ten (10) days.

- (3) The President, with such advice or consultation as may be deemed appropriate, shall review the inquiry report, the inquiry record, and the comments (if any) of the person(s) accused of misconduct/fraud and determine either
 - (i) that the allegations are unfounded and that no further proceedings are warranted, or
 - (ii) that there is substantial evidence to support the truth of the allegations and that hearing procedures to discipline or terminate the accused person(s) should be commenced pursuant to the established due process procedures of the University and the Board of Regents of the University of Texas System. The hearing procedures must begin within thirty (30) days after the conclusion of the inquiry. An attorney from the U. T. System Office of General Counsel will be available to represent the University in the hearing.
- (4) If it is determined that the alleged misconduct/fraud is not substantial, diligent efforts will be undertaken by the University to restore the reputation of the accused person(s). Diligent efforts will also be taken to protect the position and reputation of the person(s) who, in good faith, made the allegations.
- (5) In the event that the allegations are admitted by the accused person(s) or the hearing procedures result in a determination that the allegations of misconduct/fraud are true, the University will notify the sponsoring agency of the facts related to the allegations, the conclusions reached, and the penalty imposed by the University. In addition, notice will be given to the editors of all journals to which articles related to the affected research have been submitted.
- (6) Documentation substantiating the findings of inquiries and investigations will be maintained and provided to authorized sponsoring agency personnel upon request.

C. Additional Procedures for Allegations of Misconduct in Science Related to Public Health Service Projects.

In the event that allegations of misconduct in science are made with regard to an application for, or a grant of, funds for research, research-training, a research-related activity, or a cooperative agreement under the Public Health Service (PHS) Act, appropriate interim administrative actions will be taken to protect federal funds and to ensure that the purposes of the federal financial assistance are being carried out. In addition, the following action must be taken:

- (1) Notify the Office of Research Integrity (ORI) of the Office of the Director of the National Institute for Health when it appears at any time during the inquiry or other procedures that
 - (i) an immediate health hazard is involved.
 - (ii) there is an immediate need to protect federal funds or property, or to protect the interests of the person(s) making the allegations or of the person(s) against whom allegations have been made and/or their co-investigators.
 - (iii) it is probable that the alleged misconduct will be made public.
 - (iv) information exists reasonably indicating that there has been a criminal violation, in which case the ORI must be notified within 24 hours of obtaining such information.
- (2) Notify ORI of any developments during the course of the investigation which disclose facts that may affect current or potential HHS/ORI funding for individual(s) under investigation or that the PHS needs to know to ensure appropriate use of federal funds to otherwise protect the public interest.
- (3) Notify the ORI that a decision has been made to initiate disciplinary or termination procedures (the "investigation" under the PHS rules), including the name of the person(s) against whom allegations of misconduct have been made, the general nature of the allegations, and the PHS application or grant number(s) involved.
- (4) Notify the ORI of any decision that an inquiry or other procedure based upon the allegations will not be pursued to completion together with the reasons for such decision.
- (5) Provide ORI with a final report within 120 calendar days of initiation of the investigation of any disciplinary or termination procedure, including a description of such procedures, the sanction imposed, how and from

whom relevant information was obtained, the conclusions reached, the basis for such conclusions, and any statement or views of the person(s) found to have engaged in misconduct.

- (6) Request an extension of time from ORI when it appears that disciplinary or termination procedures will not be completed within the 120 days. The request must include an interim report on progress to date, an explanation for the delay in completion, and an estimate of the anticipated date of completion.
- (7) If an investigation is not warranted, detailed documentation of the inquiry will be maintained for at least three years and provided to authorized HHS/ORI personnel upon request.

5.07 COPYRIGHTED MATERIALS

It is the policy of The University of Texas System and U. T. Tyler to follow the requirements of the *United States Copyright Law of 1976*, as amended, (Title 17, United States Code, hereinafter, the "Copyright Act"). Accordingly, all faculty, staff and students of U. T. Tyler should follow these policy guidelines:

1. Only copyrighted materials are subject to the restrictions in this policy statement. Uncopyrighted materials may be copied freely and without restriction. Because a copyright notice is not required for copyright protection of works published on or after March 1, 1989, most works (except those authored by the United States Government) should be presumed to be copyright protected, unless further information from the copyright holder or express notice reveals that the copyright holder intends the work to be in the public domain. With regard to works published prior to March 1, 1989, a copyright notice generally is required in order for them to be copyright protected.
2. Copyrighted software may be copied without the copyright owner's permission only in accordance with the Copyright Act. Section 117 of the Act permits the making of a single archival back-up copy. Most software, however, is licensed to the user and the terms of the license agreement may give the user permission to make copies of the software in excess of the single archival copy permitted by the Copyright Act. Each software license agreement is unique. As a result, the extent of the user's rights to copy licensed software beyond that which is permitted under the Copyright Act may only be determined by reading the user's license agreement. It is the policy of the University of Texas System that any copying or reproduction of copyrighted software on System or UT Tyler computing equipment must be in accordance with the Copyright Act and the pertinent software license agreement. Further, faculty, staff and students may not use unauthorized copies of software on System or U. T. Tyler owned

computers or networks or computers housed in System or component institution facilities.

3. Copyrighted materials may be copied without the copyright owner's permission where such copying constitutes "fair use" under the Copyright Act.
4. In order to copy materials, including software, where (a) the materials are copyrighted, (b) use exceeds what is permitted by license or the Rules of Thumb, and (c) the four factor use test indicates that the use is likely not fair, permission should be obtained from the copyright owner.
5. If permitted by State law and procedures, The University of Texas System will defend any faculty or staff member against a civil action alleging copyright infringement:
 - a. where the use is in accordance with the provisions of a valid software license agreement,
 - b. where the use is within the Rules of Thumb,
 - c. where the permission of the copyright owner has been obtained, or
 - d. where the Office of General Counsel has assisted in determining that the use was permissible.

Otherwise, the faculty or staff member will be personally responsible for the defense of a civil action for copyright infringement.

6. UT Tyler will post notices reflecting this policy at all computers and photocopying stations which may be used for reproducing copyrighted materials, e.g., departmental copy rooms and libraries, and at or near all computers.
7. For educational uses of music, the guidelines set forth in the legislative history of 107 of the Copyright Act are generally applicable. With respect to emergency copying permitted under those guidelines, special implementing details are set forth in the Fair Use document (see below).

NOTE: The Fair Use of Copyrighted Materials (from the Regents' Rules and Regulations) is available in the offices of the academic deans and the Provost and Vice President for Academic Affairs.

5.08 INTELLECTUAL PROPERTY POLICY AND GUIDELINES

A. Responsibility and Obligation of Faculty and Staff

- (1) The intellectual property policy applies to all personnel employed by UT Tyler and to anyone (including students) who use institutional facilities under the supervision of university personnel. A copy of this policy will be provided to faculty and staff upon employment.
- (2) It will be the responsibility and obligation of U. T. Tyler faculty and staff to disclose all creative ideas, inventions, discoveries, trade secrets, technology, scientific or technological developments, processes, and products including but not limited to software and video productions (“Inventions”) with potential for commercial exploitation to the University Intellectual Property Advisory Committee (IPAC) regardless of the source of support. The Invention that may result shall be brought to the attention of the IPAC immediately after it has taken form, and before any publication, to ensure the intellectual property rights of both individual(s), if applicable, and the University are not diminished.

B. Determination of Rights, Privileges and Ownership

- (1) The Intellectual Property Advisory Committee (IPAC) will consider all disclosures of Inventions created by any employee and help to administer patent and copyright policies and secure appropriate rights.
 - (a) IPAC will make recommendations as to the degree of university sponsorship, if any, as well as ownership rights and privileges.
 - (b) IPAC will recommend changes in the distribution of proceeds derived from intellectual property if the equities so require.
 - (c) The contributors or inventors have the responsibility to provide the IPAC in writing and in reasonable detail, the information necessary to make such a recommendation concerning rights and ownership.
 - (d) IPAC will develop a formal procedure for reporting Inventions as well as the disposition of claims and the exploitation of such creative endeavors in accordance with the U. T. Board and System general guidelines, policies and regulations.
 - (e) Any determinations made by IPAC will be subject to the approval of the President of UT Tyler.

- (2) IPAC will be appointed by the President. Membership shall include the Provost, Vice President for Business Affairs, and at least four faculty members. At least two of the faculty members should be from disciplines generating research with potential for patentable and copyrightable ideas, processes, or products.

C. Classification of Intellectual Property by Source of Support

The following three categories of determining ownership of intellectual property are set forth in Regents' Rules and Regulations.

- (1) Intellectual property that is unrelated to the individual's employment responsibility and has been developed as a result of the individual's efforts on his or her own time with no UT Tyler support or use of its facilities.
- (2) Intellectual property that is related to the individual's employment responsibility, or has resulted either from activities performed by the individual on U. T. Tyler time, or with support by state funds, or from using UT Tyler facilities.
- (3) Intellectual property that has resulted from research supported by a grant or contract with the Federal Government or an agency thereof, a nonprofit or for profit nongovernmental entity or by a private gift to UT Tyler.

D. Intellectual Property Rights and Obligations

- (1) Intellectual property unrelated to the individual's employment responsibility that is developed on an individual's own time and without UT Tyler support or use of UT Tyler facilities (see C.1) is the exclusive property of the creator and UT Tyler has no interest in any such property and no claim to any profits resulting there from. Should the creator choose to offer the creation to UT Tyler, the IPAC shall recommend to the President whether UT Tyler (and the UT System) should support and finance a patent application or other available protective measures and manage the development and commercialization of the property. If the President so recommends and the creation is accepted for management by the System, the procedures to be followed and the rights of the parties shall be those set out in Subdivision 5.23 of the Regents' Rules and Regulations.
- (2) Intellectual property either related to the individual's employment responsibility, or resulting from activities per-

formed on UT Tyler time, or with support by state funds, or from using UT Tyler facilities is subject to ownership by the University of Texas Board. (see C.2)

- (a) Before intellectual property is disclosed either to the public or for commercial purposes, and before publishing same, the creator shall submit a reasonably complete and detailed disclosure of such intellectual property to the President of UT Tyler through the IPAC, for determination of the System's interest.
- (b) If the President recommends that UT Tyler not assert and exploit its interest and that recommendation is approved by the Office of General Counsel, the creator shall be notified within one hundred eighty (180) days of the date of submission that he or she is free to obtain and exploit a patent or other intellectual property protection in his or her own right.
- (c) With respect to intellectual property in which UT Tyler asserts an interest (see D.1 and D.2), the Office of General Counsel in consultation with the President (based upon a recommendation from the IPAC) shall decide how, when, and where the intellectual property is to be protected.
 - (i) If UT Tyler decides to patent or seek other available protection for intellectual property which falls into D.1 and/or D.2, it may proceed either through its own efforts or those of an appropriate private firm or attorney to obtain protection and manage the intellectual property. Under appropriate circumstances, and with the consent of the Vice Chancellor and General Counsel and the approval of the Attorney General, UT Tyler may arrange to have services to obtain protection for intellectual property performed by a local outside attorney on a case-by-case basis.
 - (ii) It shall be mandatory for all employees, academic and nonacademic, to assign the rights to intellectual property and patents to the Board when such creations fall within

category D.2. In those instances where UT Tyler licenses rights in intellectual property to third parties, the costs of licensing and obtaining a patent or other protection for the property on behalf of the Board shall first be recaptured from any royalties received by UT Tyler, and the remainder of such royalty income (including license fees, prepaid royalties and minimum royalties) shall be divided as follows:

50% to creator(s)
50% to UT Tyler.

- (iii) When multiple individuals are involved in any project, the fixed percentages of the proceeds designated to the "creative individual" will be distributed in a manner agreed upon by the individuals involved. The percent of the proceeds attributable to the collaborative departments and colleges will be equal to that assigned to the creative individuals. In cases where a clear decision cannot be reached regarding the degree of project participation by the individuals, departments and schools involved, IPAC will serve as an arbitrator.
 - (iv) The fixed percentages of the proceeds allocated to the University should be distributed among the departments of the faculty/staff member(s), the school of the faculty/staff member(s) and the University administration in equal shares (1/3 each). In general, proceeds assigned to the University will be employed in a manner to encourage future research and other appropriate endeavors.
- (3) Intellectual property resulting from research supported by a grant or contract with the Federal Government, or an agency thereof, with a nonprofit or for profit nongovernmental entity, or by a private gift or grant to UT Tyler shall be subject to ownership by the Board. (See Subsections 5.31-5.36, Regents' Rules and Regulations.)

E. Equity Interests

- (1) In agreements with business entities relating to rights in intellectual property owned by the Board, UT Tyler may receive equity interests as partial or total compensation for the rights conveyed. In any such instance, the component institution where the intellectual property was created may elect, at its option and with the concurrence of the Chancellor, to share an equity interest with the creator(s) in the same manner as royalties are shared pursuant to Subdivision D.2.c.
- (2) Consistent with Section 51.912, Texas Education Code, and subject to review and approval by the President of UT Tyler, the appropriate Executive Vice Chancellor, the Chancellor and the Board, employees of UT Tyler who conceive, create, discover, invent or develop intellectual property may hold an equity interest in a business entity that has an agreement with UT Tyler relating to the research, development, licensing or exploitation of that intellectual property.
- (3) The University may negotiate, but shall not be obligated to negotiate, an equity interest on behalf of any employee as a part of an agreement between UT Tyler and a business entity relating to intellectual property conceived, created, discovered, invented, or developed by the employee and owned by the Board.
- (4) Dividend income and income from the sale or disposition of equity interests held by the Board pursuant to agreements relating to intellectual property shall belong to UT Tyler and shall be distributed in accordance with the provisions of Section I.
- (5) Dividend income and income from the sale or disposition of an equity interest held by a UT Tyler employee pursuant to an agreement between the UT Tyler and a business entity relating to rights in intellectual property conceived, created, discovered, invented or developed by such employee shall belong to the employee.

F. Business Participation

- (1) Any UT Tyler employee who conceives, creates, discovers, invents or develops intellectual property shall not serve as a member of the board of directors or other governing board or as an officer or an employee (other than as a consultant) of a business entity that has an agreement with the University

relating to the research, development, licensing, or exploitation of that intellectual property without prior review and approval by the President, the Chancellor and the Board.

- (2) When requested and authorized by the Board, an employee may serve on behalf of the Board as a member of the board of directors or other governing board of a business entity that has an agreement with the UT Tyler relating to the research, development, licensing or exploitation of intellectual property.

G. Reporting

- (1) Any employee covered by E.2, F.1 or F.2 shall report in writing to the President and the IPAC the name of any business entity in which the person has an interest or for which the person serves as a director, officer or employee and shall be responsible for submitting a revised written report upon any change in the interest or position held by such person in such business entity. These reports shall be forwarded to the Vice Chancellor and General Counsel by October 1 of each year for filing with the Board as required by Section 51.912, Texas Education Code and inclusion in the annual financial report sent to the State officials listed in Section 51.005, Texas Education Code.

H. Approval of and Execution of Legal Documents Relating to Rights in Intellectual Property

- (1) Agreements that grant an interest in Board intellectual property may be executed and delivered in accordance with the provisions of the Regents' Rules and Regulations, Part Two, Chapter XI, following any required review by the Office of General Counsel.
- (2) Any document altering substantially the basic intellectual property policy of UT Tyler as set out in the preceding Sections and other policies and guidelines that may be adopted by the Board shall have the advance approval of the President, the appropriate Executive Vice Chancellor, the Chancellor, and the Board as an agenda item. Such an alteration in a sponsored research agreement shall not be considered substantial and the agreement may be executed and delivered as set forth in Subsection H.1 if, in the judgment of the President and with the concurrence of the appropriate Executive Vice Chancellor, the benefits from the level of funding for the proposed research

and/or other consideration from the sponsor outweigh any potential disadvantage that may result from the policy deviation.

- (3) The Chancellor, the appropriate Executive Vice Chancellor, the Vice Chancellor and General Counsel or the authorized representative of UTIMCO may execute, on behalf of the Board, legal documents relating to the Board's rights in intellectual property, including, but not limited to, declarations, affidavits, powers of attorney, disclaimers, and other such documents relating to patent applications and patents; applications, declarations, affidavits, affidavits of use, powers of attorney, and other such documents relating to trademarks; and other documents approved pursuant to Subsections H.1 or H.2. The President or designee may execute, on behalf of the Board, institutional applications for registration or recordation of transfers of ownership and other such documents relating to copyrights.

I. Income from Intellectual Property

- (1) The portion of the net income UT Tyler retains from royalties and any other intellectual property-related income shall be used by the University where the income-producing creation originated for research and other purposes approved by the Board in accordance with standard budgetary policies. At the option of UT Tyler, such income may be accumulated in an endowment fund with the income to be distributed to the component institution for such purposes as may be approved by the Board.
- (2) With the prior written approval of the President of UT Tyler, future royalties payable to a faculty member pursuant to Subdivision D.2.c may be assigned to UT Tyler by the faculty member and designated for use in research to be conducted by such faculty member.

5.09 TRAFFIC AND PARKING

Pursuant to the authority granted by Sections 51.201 et seq, 54.005, 54.503, 65.31 and Chapter 76 of Title 3 of the *Texas Education Code*, the Board of Regents of The University of Texas System promulgated Parking and Traffic Regulations to regulate and control parking and traffic and the use of parking facilities, to provide for the issuance of parking permits, and to provide for jurisdiction over offenses. These regulations and procedures are applicable to any person who walks or drives and parks a motor vehicle or bicycle on the campus of The University of Texas at Tyler. These

rules and regulations are supplementary to the ordinances of the city in which the campus is located and the statutes of the State of Texas which govern pedestrians and the use of motor vehicles and bicycles.

The operating of a motor vehicle or bicycle on The University of Texas at Tyler campus is a PRIVILEGE granted by the University and is not an inherent right of any faculty/staff member or student. All faculty, staff and students who have motor vehicles in their possession or control for use, operation or parking on the University campus must apply for a permit with the University Police Office. Purchasing a parking permit does not guarantee a parking place on campus.

The University is not responsible for fire, theft, damage to, or loss of vehicles parked or operated on the University campus. No bailment is created by granting of any parking or operating privileges regarding a vehicle on any property owned, leased or otherwise controlled by the University.

The administration and enforcement of the regulations are contained in the Traffic & Parking Booklet. This booklet is available in the University Police Department.

5.10 ELECTRONIC MAIL POLICY

A. Definitions.

- (1) Electronic mail system. A computer software application that allows electronic messages to be communicated from one computer to another.
- (2) Electronic mail (email). Any message, form, attachment, or other communication sent, received, or stored within an electronic mail system.

C. Ownership. Electronic mail sent, received, or stored on computers owned, leased, or administered by The University of Texas at Tyler is the property of The University of Texas at Tyler.

D. Privacy. Electronic mail sent, received, or stored on computers owned, leased, or administered by The University of Texas at Tyler is not private. Electronic mail content may be accessed by appropriate personnel in accordance with the provisions and safeguards provided in [Business Procedures Memorandum 53-02-96 - Policy for the Use and Protection of Information Resources \(BPM #53\)](#). Saved messages must not be encrypted. Encryption is permitted, and encouraged where appropriate, during transmission of messages.

E. Prohibited Activities.

- (1) The following activities are prohibited by policy:

- (a) the sending of email that is intimidating or harassing;
 - (b) the use of email for conducting a personal business;
 - (c) the use of email for purposes of political lobbying or campaigning;
 - (d) the violation of copyright laws by inappropriately distributing protected works;
 - (e) the accessing of another employee's email without that employee's consent unless doing so in accordance with BPM #53 or other established policy or law;
 - (f) the posing as anyone other than oneself when sending email, except when authorized to send messages for another when serving in an administrative support role.
- (2) The following activities are prohibited because they impede the functioning of network communications and the efficient operations of electronic mail systems:
- (a) the sending or forwarding of chain letters;
 - (b) the sending of unsolicited messages to large groups except as required to conduct university business;
 - (c) the sending of excessively large messages;
 - (d) the sending or forwarding of email that is likely to contain computer viruses.

Prohibited activities identified in this section are not all inclusive. University of Texas at Tyler electronic mail must never be used in a manner that violates U. T. Tyler policy, U. T. System policy, state law or federal law.

In accordance with BPM #53 appropriate disciplinary action will be taken for misuse of U. T. Tyler information resources, including electronic mail systems.

F. Electronic Mail Administration. The Office of Information Resources (OIR) administers an electronic mail system available for use by U. T. Tyler employees and all U. T. Tyler departments. Information Resources functions include mailbox creation and deletion, space allocation, message delivery, system backup, virus scanning, employee training, and other tasks that may be required to maintain system functionality and integrity.

G. Employee Mailboxes. An electronic mailbox is established for each authorized employee. The employee receives by email the [BPM #53](#) along with an electronic button to acknowledge that they have read and will abide by that policy. Failure to respond results in revoking access to their mailbox.

All authorized employees are added to the mailing group EVERYONE. This mailing group is to be used only for the delivery of messages relating to U. T. Tyler business. Other shared mailing groups are created at the request of department heads. Employees are added to these groups as directed by the owner of that group.

Messages and folders contained within employee assigned mailboxes are managed by the employee. Employees are encouraged to configure mailboxes to purge deleted messages upon exiting the mailbox.

Initially, an employee's mailbox size is not regulated. If the employee's mailbox exceeds 25 megabytes, the employee will be notified and asked to delete and compact their mailbox. An employee may receive additional space if needed for business purposes. Requests are placed to the OIR and are subject to approval by the Director of Information Resources. The approval process involves an analysis of the current use of the mailbox. This analysis includes a review of message titles and folder sizes, but does not include reading of messages. If this analysis raises concern of resource abuse, messages may be accessed in accordance with the provisions of [BPM #53](#). The requesting employee is notified upon approval or disapproval of the request for increased mailbox storage space.

H. Incidental Use. As a convenience to employees, incidental use of electronic mail is allowed. The following restrictions apply.

- (1) Incidental personal use of U. T. Tyler Information Resources is acceptable, provided electronic mail is restricted to U. T. Tyler employees; it does not extend to family members or friends.
- (2) Incidental use must not result in direct costs to The University of Texas at Tyler.
- (3) Incidental use must not interfere with the normal performance of an employee's work duties.
- (4) No personal messages should be sent or saved that may cause embarrassment to The University of Texas at Tyler.
- (5) No personal messages should be sent, read, or saved that have high likelihood to expose University computer systems to computer viruses or other harmful programs. Employees should review the guidelines concerning high-risk electronic messages. Storage of personal email must not exceed 1 megabytes

of space. To minimize space requirements, employees are encouraged to delete personal messages as soon as possible.

- (6) Employees should remove themselves from any personal mail lists that send messages containing content incompatible with this policy.
- (7) Abuse of incidental use privileges may result in disciplinary action in accordance with provisions [BPM #53](#).
- (8) All messages - including personal messages - are owned by The University of Texas at Tyler, may be subject to open records requests, and may be accessed in accordance with this policy and [BPM #53](#).

I. Records Retention. Electronic mail is subject to the same records retention rules that apply to other documents and must be retained in accordance with departmental records retention schedules.

- (1) The retention requirement associated with any document is determined by its content, not the method of delivery. Each U. T. Tyler department has a records retention schedule that specifies the retention period to be applied to various documents.
- (2) The responsibility of retaining an internally created and distributed document (or message) most often falls on the author - not the recipients. Recipients may delete such received messages when their use has been fulfilled.
- (3) Employees who receive messages from outside U. T. Tyler are responsible for proper records retention of those messages.
- (4) Most casual email messages are "transitory records" and can be discarded as their purpose is served.
- (5) For records retention purposes, electronic mail that is digitally signed must be filed electronically rather than on paper if the signature is of importance to the legal status or business usefulness of the document.
- (6) Email that has been requested in a subpoena or public information request must be retained until the request has been addressed, even if the retention period has expired.

J. Electronic Mail Backup and Recovery. The Office of Information Resources creates electronic mail backup tapes daily (Monday through Friday) solely for the purpose of restoring the entire electronic mail system in the event of disaster. Tapes are retained for a period of one week. Backup tapes do not allow for restoration of individual mailboxes and cannot be used as a convenience to retrieve "deleted" messages.

Backup tapes do not serve as records retention function. Each U. T. Tyler department must make provisions to retain documents and messages in accordance with their departmental records retention policy.

K. Alternative Electronic Mail Systems. Situations may arise that require use of alternative electronic mail applications. Departments that deploy such systems are responsible for their administration. All use must be in accordance with this policy and [BPM #53](#).

An employee must receive approval from one's supervisor to operate an electronic mail system or application other than that administered by the Office of Information Resources. Administration of an alternative system is the responsibility of the employee and the employee's departmental management. All use must be in accordance with this policy and [BPM #53](#).

5.11 INCLEMENT WEATHER POLICY.

The University of Texas at Tyler will hold office hours and classes as indicated on the official calendar, except when the University President or his designee deems inclement weather may make traveling to or from campus hazardous to students, faculty and staff. Only the President of the University or his designee is authorized to cancel or postpone office hours and classes.

The decision regarding the cancellation or postponement of classes and office hours shall be made in consultation with the "Inclement Weather Committee" which shall be comprised of the Chief of University Police, the Director of the Physical Plant, and the Director of News and Information.

At the onset or anticipation of adverse weather, the Chief of University Police shall monitor road conditions with the Texas Department of Public Safety and the Tyler Police Department, campus conditions and weather forecasts and reports from the National Weather Service.

The Chief of University Police also shall notify other members of the Adverse Weather Committee who shall monitor radio reports and observe weather conditions in their immediate vicinity. The Director of News and Information shall consult Tyler Junior College, Tyler Independent School District and the Longview and Palestine campuses regarding their plans.

The committee members will share information collected and make a recommendation to the President who shall make a decision at his discretion.

In the event the decision is made **before** the beginning of the workday to cancel or postpone classes and office hours, the Office of News and Information shall notify: 1) area radio stations, television stations and newspapers by 5:45 a.m. if possible; 2) members of the Academic Council; and 3) the university policy switchboard.

In the event the decision is made **during** the workday to cancel or postpone classes and office hours, the Office of News and Information shall notify: 1) members of Academic Council; 2) the university policy switchboard; and 3) area radio stations, television stations and newspapers.

Designated employees in the Office of Admission, News and Information, Information Resources (main switchboard), Library and the President's Office, as well as the Longview University Center and the Palestine Campus, will change the message on those phones to reflect the university closing or postponement of classes and office hours.

Hours missed by employees, **except under these circumstances**, will be handled as any other absence and will be charged to leave or reduction of pay.